U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001

BRB No. 23-0495 BLA

JERRY W. MEADOWS Claimant-Respondent v. MEADOW RIVER COAL COMPANY c/o PITTSTON COMPANY and WEST VIRGINIA COAL WORKERS' PNEUMOCONIOSIS FUND Employer/Carrier-Petitioners DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR Party-in-Interest	)	**NOT-PUBLISHED** DATE ISSUED: 01/31/2025 DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of Lauren C. Boucher, Administrative Law Judge, United States Department of Labor.

Timothy C. MacDonnell and Makailah Lee (Advanced Administrative Litigation Clinic, Washington and Lee University School of Law), Lexington, Virginia, for Claimant.

Chris M. Green and Wesley A. Shumway (Spilman Thomas & Battle, PLLC), Charleston, West Virginia, for Employer and its Carrier.

Before: GRESH, Chief Administrative Appeals Judge, BUZZARD and JONES, Administrative Appeals Judges.

PER CURIAM:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Lauren C. Boucher's Decision and Order Awarding Benefits (2021-BLA-05681) rendered on a subsequent claim[1] filed on January 17, 2020, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).

The ALJ credited Claimant with twenty-six years of underground coal mine employment and found he established a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(b)(2). Thus she found Claimant invoked the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act,[2] and established a change in an applicable condition of entitlement.[3] 30 U.S.C. §921(c)(4) (2018); 20 C.F.R. §725.309. She further found Employer did not rebut the presumption and awarded benefits.

[1] This is Claimant's third claim for benefits. The Federal Records Center destroyed the record of his first claim. Director's Exhibit 1. Claimant filed a second claim but later withdrew it. Director's Exhibit 2. A withdrawn claim is considered not to have been filed. *See* 20 C.F.R. §725.306. The ALJ proceeded as if Claimant failed to establish any element of entitlement in his initial claim. Decision and Order at 4 n.8.

[2] Section 411(c)(4) of the Act provides a rebuttable presumption that a miner is totally disabled due to pneumoconiosis if he has at least fifteen years of underground or substantially similar surface coal mine employment and a totally disabling respiratory or pulmonary impairment. 30 U.S.C. §921(c)(4) (2018); *see* 20 C.F.R. §718.305.

[3] When a miner files a claim for benefits more than one year after the denial of a previous claim becomes final, the ALJ must also deny the subsequent claim unless she finds "one of the applicable conditions of entitlement . . . has changed since the date upon which the order denying the prior claim became final." 20 C.F.R. §725.309(c); *see White v. New White Coal Co.*, 23 BLR 1-1, 1-3 (2004). The "applicable conditions of entitlement" are "those conditions upon which the prior denial was based." 20 C.F.R. §725.309(c)(3). Because the ALJ proceeded as if Claimant failed to establish any element of entitlement in his prior claim, *see supra* note 1, she required Claimant to submit new evidence establishing at least one element of entitlement to obtain review of this claim on the merits. Decision and Order at 4 n.8.

On appeal, Employer argues the ALJ erred in finding Claimant established total disability and invoked the Section 411(c)(4) presumption. It also argues she erred in finding it did not rebut the presumption. Claimant responds in support of the award of benefits. The Director, Office of Workers' Compensation Programs, has not filed a response brief. Employer filed a reply brief reiterating its contentions.[4]

The Benefits Review Board's scope of review is defined by statute. We must affirm the ALJ's Decision and Order if it is rational, supported by substantial evidence, and in accordance with applicable law.[5] 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman and Grylls Assocs., Inc.*, 380 U.S. 359, 361-62 (1965).

Invocation of the Section 411(c)(4) Presumption – Total Disability

To invoke the Section 411(c)(4) presumption, Claimant must establish he has a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.305(b)(1)(iii). A miner is totally disabled if his pulmonary or respiratory impairment, standing alone, prevents him from performing his usual coal mine work or comparable gainful work.[6] 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on pulmonary function studies, arterial blood gas studies, evidence of pneumoconiosis and cor pulmonale with right-sided congestive heart failure, or medical opinions. 20 C.F.R. §718.204(b)(2)(i)-(iv). The ALJ must weigh all relevant supporting evidence against all relevant contrary evidence. *See Defore v. Ala. By-Products Corp.*, 12 BLR 1-27, 1-28-29 (1988); *Rafferty v. Jones & Laughlin Steel Corp.*, 9 BLR 1-231, 1-232 (1987); *Shedlock v. Bethlehem Mines Corp.*, 9 BLR 1-195, 1-198 (1986), *aff'd on recon.*, 9 BLR 1-236 (1987) (en banc).

[4] We affirm, as unchallenged on appeal, the ALJ's finding that Claimant established twenty-six years of underground coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 6.

[5] The Board will apply the law of the United States Court of Appeals for the Fourth Circuit because Claimant performed his last coal mine employment in West Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibit 5; Hearing Tr. at 37.

[6] We affirm, as unchallenged, the ALJ's finding that Claimant's usual coal mine employment as a section foreman required "very heavy manual labor." Decision and Order at 5; *see Skrack*, 6 BLR at 1-711.

The ALJ found Claimant established total disability based on the medical opinions and the evidence as a whole.[7] 20 C.F.R. §718.204(b)(2)(iv); Decision and Order at 9-18. In making that finding, she considered the medical opinions of Drs. Sood, Werntz, Durham, Zaldivar, and McSharry. Decision and Order at 9-17. Drs. Sood and Werntz opined Claimant is totally disabled by a gas exchange impairment as evidenced by his exercise arterial blood gas testing. Director's Exhibit 27; Claimant's Exhibits 1; 7. Dr. Durham did not specifically opine whether Claimant is totally disabled, but stated he has a significant pulmonary impairment based on his pulmonary function studies. Director's Exhibit 31 at 2-3. Drs. Zaldivar and McSharry opined Claimant is not totally disabled because his pulmonary function and blood gas studies are non-qualifying.[8] Employer's Exhibits 1; 4; 6; 9. The ALJ found the opinions of Drs. Durham, Zaldivar, and McSharry inadequately reasoned. Decision and Order at 15-16. She further found the opinions of Drs. Sood and Werntz are reasoned and documented, and thus concluded the medical opinion evidence supports a finding of total disability. *Id*.

Employer argues the ALJ erred in crediting the opinions of Drs. Sood and Werntz. Employer's Brief at 14-18. We disagree.

Dr. Sood opined Claimant's exercise blood gas testing reveals a drop in pO2 values, rise in pCO2 values, and symptoms of shortness of breath and fatigue at an "estimated peak exercise" of 5.1 metabolic equivalents (METs). Claimant's Exhibit 1 at 10-11, 14-15. He concluded Claimant is totally disabled from a pulmonary standpoint and his 5.1 METs constitutes a Class II impairment of the whole person under the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment. Citing the American Thoracic Society guidelines for evaluating impairment from chronic respiratory disorders, Dr. Sood explained that a worker "involved in manual labor can comfortably work at [forty-percent] of his VO2 peak value for prolonged periods of time." *Id*. at 14. Thus, he opined Claimant could "comfortably perform activities for prolonged periods that

[7] The ALJ found Claimant did not establish total disability based on the pulmonary function studies or arterial blood gas studies, and there is no evidence of cor pulmonale with right-sided congestive heart failure. 20 C.F.R. §718.204(b)(2)(i)-(iii); Decision and Order at 7-9.

[8] A "qualifying" pulmonary function study or blood gas study yields results equal to or less than the applicable table values contained in Appendices B and C of 20 C.F.R. Part 718, respectively. A "non-qualifying" study yields results exceeding those values. *See* 20 C.F.R. §718.204(b)(2)(i), (ii).

require" less than 2.04 METs (forty percent of 5.1) based on the results of the blood gas testing.[9] *Id.*

Dr. Sood then set forth the exertional requirements of Claimant's usual coal mine employment as a section foreman.[10] Claimant's Exhibit 1 at 2. He noted the "heaviest and hardest part of the job was shoveling and carrying [fifty-pound] bags of rock dust while crawling." *Id.* at 15. He stated this level of exertion equates to heavy physical labor. *Id.* Again citing the AMA guidelines, Dr. Sood indicated heavy work requires an exercise capacity of five to six METs of prolonged physical capacity, while Claimant could only "comfortably perform activities for prolonged periods that require" less than 2.04 METs. At that level of METs, Dr. Sood opined Claimant could perform only "light and limited moderate" work but is totally disabled from performing the heavy work required of his previous coal mine job.[11] *Id.*

Contrary to Employer's arguments, the ALJ permissibly found Dr. Sood's opinion is well-reasoned and documented because it is based on objective testing results,[12] the

[9] Dr. Sood also noted Claimant's pulmonary function testing revealed a diffusing capacity of sixty-six percent of predicted which "meets the criteria for Class I impairment of the whole person." Claimant's Exhibit 1 at 14.

[10] Dr. Sood noted that in his job as a section foreman, Claimant crawled to check air quality and ventilation, helped in rock dusting, built brattices, operated the roof bolter and other equipment when needed, set timbers, dragged and hung curtains, built stoppings, helped crews, shoveled coal around the belt, pumped water, helped electricians in making repairs, helped in replacing motors in equipment, spliced belts, changed belts out, and "always worked in low coal having to crawl around areas checking belt structures up to a distance of 3000 [feet] daily." Claimant's Exhibit 1 at 2. Further, he recognized Claimant "worked on his knees all shift or crawled around up to [eighteen] hours a day," lifted up to fifty-pound rock dust bags at least sixty times a day, lifted up to sixteen pound cinder blocks one-hundred and twenty times a day, and lifted twenty-five pound timbers as needed. *Id.*

[11] In further support of his opinion, Dr. Sood noted that studies indicate "the median exertion level for coal miners [is] 3.3 METs, and the [ninetieth] percentile exertion level was 6.3 METs." Claimant's Exhibit 1 at 14 (internal citations omitted). Thus he explained Claimant "would not be able to perform the median exertion level for coal miners for prolonged periods nor the 90th percentile exertion level." *Id.*

[12] Contrary to Employer's argument, Dr. Sood did not rely solely on the METs value to diagnose total disability. Claimant's Exhibits 1; 7. He identified the METs value associated with the peak exercise Claimant reached before experiencing shortness of breath

physician provided a "compelling" explanation as to why Claimant's METs value prevents him from performing heavy labor, and his "explanation speaks directly to the ultimate factual issue - whether Claimant can perform the exertional requirements of his usual coal mine employment . . . ."[13] Decision and Order at 17; *see Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997).

Similarly, Dr. Werntz observed that Claimant's exercise blood gas study showed his pO2 values fell and his pCO2 values rose after exercising to 5.1 METs. Director's Exhibit 27 at 6. In light of those results, he opined Claimant has a "sustainable aerobic capacity" of 4.5 METs. *Id*. He noted Claimant's usual coal mine employment as a section foreman required him to crawl because the mine was forty-two inches high. *Id*. In addition, he noted Claimant had to operate all the mine equipment to cover for his team during breaks and inspect various sections, including three thousand feet of beltway. *Id*. Dr. Werntz characterized this job as being on the "lower end of the heavy aerobic demand category." *Id*. He concluded that because Claimant was required to crawl due to the mine height, his "sustainable aerobic capacity" would not "be adequate to meet the aerobic demands of his last job" and he thus is totally disabled. *Id*. The ALJ permissibly found Dr. Werntz's opinion is well-reasoned and documented because he "explained the bases for his

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and a gas exchange impairment on blood gas testing. Director's Exhibit 27; Claimant's Exhibits 1; 7. Although Employer argues the evidence does not support total disability because the blood gas testing is non-qualifying, Employer's Brief at 18-20, total disability "may nevertheless be found if a physician exercising reasoned medical judgment, based on medically acceptable clinical and laboratory diagnostic techniques, concludes that a miner's respiratory or pulmonary condition prevents" him from performing his usual coal mine employment. 20 C.F.R. §718.204(b)(2)(iv).

[13] Employer further argues the ALJ erred in crediting Dr. Sood's opinion that Claimant has abnormal diffusing capacity. Employer's Brief at 23-25. The ALJ found the record supports Dr. Sood's opinion that Claimant's pulmonary function tests produced some abnormal results, and therefore that portion of his opinion merits some weight. Decision and Order at 17. However, the ALJ ultimately found Dr. Sood's diagnosis of a disabling blood gas exchange impairment measured by blood gas testing to be "more compelling." *Id.* Thus Employer has not explained how the error it alleges would make a difference. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009) (appellant must explain how the "error to which [it] points could have made any difference"); *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).

conclusion and specifically compared Claimant's compromised respiratory abilities with the heavy exertional requirements of his usual coal mine work . . . ." Decision and Order at 17; *see Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441.

While Employer argues that the ALJ did not adequately explain her basis for finding the use of METs is a "medically acceptable clinical and laboratory diagnostic technique" under 20 C.F.R. §718.204(b)(2)(iv), she specifically recognized Dr. Sood's explanation for utilizing METs in assessing total respiratory disability and found his explanation "compelling." Decision and Order at 17. As the ALJ observed, Dr. Sood explained his basis for estimating the METs level for Claimant's usual coal mine employment and comparing it to the METs level he is capable of performing based on exercise blood gas testing. Claimant's Exhibit 7 at 26-29. He stated that the American Thoracic Society and American Medical Association have accepted the use of METs and "have certain guidelines which allow us to interpret METs and to convert them into ability to do activity."[14] *Id.* at 27-29. With respect to determining Claimant's peak exercise METs level, he explained Claimant "exercised till he could go no more, and the test was terminated due to symptom limitation." *Id.* at 27-28. He noted Claimant's specific symptoms were shortness of breath and fatigue and thus the test provides "a good understanding of how much exercise capacity" Claimant can perform "before shortness of breath and fatigue intervene." *Id.* Based on that degree of exercise capacity, Dr. Sood estimated Claimant's peak METs level and concluded it was totally disabling.

Thus, the ALJ adequately explained her rationale as the Administrative Procedure Act (APA) requires, 5 U.S.C. §557 (c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a), and permissibly found Dr. Sood's reliance on METs as an accepted measurement of exercise capacity is sufficient to satisfy the regulatory requirement that the physician's opinion be grounded in "medically acceptable clinical and laboratory diagnostic techniques."[15] Decision and Order at 17 (quoting 20 C.F.R. §718.204(b)(2)(iv)); *see Mingo Logan Coal Co v. Owens*, 724 F.3d 550, 557 (4th Cir. 2013) ("[T]he APA's 'duty of

[14] He also discussed a "study by Harber using METs that allows us an understanding of how many METs is the median physical exertion requirement in a coal mine." Claimant's Exhibits 1 at 14; 7 at 27.

[15] Employer separately argues METs testing constitutes "other medical evidence" under 20 C.F.R. §718.107. Contrary to Employer's argument, the physicians who opined Claimant is totally disabled did so based on arterial blood gas testing, utilizing METs values derived from that testing to estimate the degree of exertion Claimant reached before experiencing impairment in his blood gas exchange as measured by arterial blood gas testing. Director's Exhibit 27; Claimant's Exhibits 1; 7.

explanation' is satisfied as long as 'a reviewing court can discern what the ALJ did and why she did it[.]'") (quoting *Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 316 (4th Cir. 2012)); *see also Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441.

The ALJ's finding[16] is supported by the other evidence of record as well.[17] Dr. McSharry observed that Claimant reached an "estimated workload of 5.1 METs" during the exercise blood gas study and explained that a "MET workload is used to estimate a patient's maximum oxygen consumption." Although he believed that Claimant's METs values in this case resulted from cardiac issues, he nevertheless agreed with Dr. Sood's assessment that "the MET level achieved in exercise is inadequate to perform coal mine work[.]" Employer's Exhibits 4 at 2, 5; 9 at 3. Thus, Dr. McSharry discussed METs as a measure of oxygen consumption and exertional output used to determine exercise capacity. Claimant's Exhibit 7 at 28; Employer's Exhibits 4 at 2, 5; 6 at 43, 72; 9 at 3.

While Employer points to Dr. McSharry's opinion that Claimant's maximum oxygen consumption reflected on his METs value is due to "cardiac performance" and not "pulmonary function," we disagree with Employer's assertion that this statement establishes METs values are not medically acceptable for diagnosing total disability. Employer's Brief at 6-7, 16. Dr. McSharry's opinion in that regard pertains to whether Claimant's METs values were caused by cardiac issues, not whether it was medically appropriate for Drs. Werntz and Sood to rely on Claimant's resultant METs value as a measurement of Claimant's respiratory or pulmonary capacity to perform physical exertion. *See* 20 C.F.R. §718.204(b)(2)(iv) ("total disability may nevertheless be found [by] a physician . . . based on medically acceptable clinical and laboratory diagnostic techniques"), (c) (addressing the cause of a totally disabling respiratory or pulmonary impairment). Moreover, the ALJ permissibly found Dr. McSharry's rationale for concluding that Claimant does not have a totally disabling respiratory or pulmonary impairment, i.e., the METs "estimate [of Claimant's] maximum oxygen consumption" reflects a cardiac disability and not a pulmonary one, is not persuasive because there is no

[16] As the ALJ found Claimant met his burden through Dr. Sood's opinion, we reject Employer's argument that she shifted the burden of proof to Employer. *Director, OWCP v. Greenwich Collieries* [*Ondecko*], 512 U.S. 267 (1994); Employer's Brief at 17-18.

[17] The ALJ permissibly found Dr. Zaldivar's contrary opinion – that "one cannot draw any conclusions" from the METs value because it is "just an estimation" of Claimant's "peak oxygen consumption on that particular day" – is not adequately explained. Decision and Order at 17 n.21; *see Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997).

evidence in the record that Claimant has a cardiac issue and Dr. McSharry conceded he did not have enough information to address Claimant's heart function.[18] *See Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; Decision and Order at 15-16; Employer's Exhibits 4 at 4; 9 at 3.[19]

We also reject Employer's argument that the ALJ erred in discounting Dr. Zaldivar's opinion. Employer's Brief at 19-22. Dr. Zaldivar opined Claimant has "mild restriction of total lung capacity without any air trapping[, m]inimal diffusion abnormality," and shortness of breath, but that his impairment is due to obesity and not a pulmonary condition. Employer's Exhibits 1 at 2-3; 6 at 40-41. The ALJ permissibly found Dr. Zaldivar's opinion focuses on the etiology of Claimant's impairment and does not persuasively explain why Claimant would be able to perform very heavy labor with his restriction and diffusion abnormality.[20] *See Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; *Bosco v. Twin Pines Coal Co.*, 892 F.2d 1473, 1480-81 (10th Cir. 1989); *Johnson v. Apogee Coal Co., LLC*, 26 BLR 1-1, 1-10-11 (2023); 20 C.F.R. §718.204(b)(2)(iv) (relevant

[18] Employer asserts Dr. McSharry opined that "age alone . . . would render the 'METs' measurement of little value in determining whether the Claimant has a pulmonary or respiratory impairment." Employer's Brief at 17. Contrary to Employer's characterization, Dr. McSharry's opinion states only that Claimant has "age-appropriate" cardiac limitations and the "cause [of his] impairment is age and obesity, not coal dust exposure." Employer's Exhibits 4 at 5; 9 at 3-4. The relevant inquiry at 20 C.F.R. §718.204(b)(2) is whether the Miner had a totally disabling respiratory or pulmonary impairment; the cause of that impairment is addressed at 20 C.F.R. §§718.202(a)(4), 718.204(c), or in consideration of rebuttal of the Section 411(c)(4) presumption pursuant to 20 C.F.R. §718.305. *See Island Creek Coal Co. v. Blankenship*, 123 F.4th 684, 692 (4th Cir. 2024); *Bosco v. Twin Pines Coal Co.*, 892 F.2d 1473, 1480-81 (10th Cir. 1989); *Johnson v. Apogee Coal Co., LLC*, 26 BLR 1-1, 1-10-11 (2023).

[19] We note, moreover, that Employer does not specifically challenge the ALJ's finding that Dr. McSharry "did not demonstrate an understanding of the exertional requirements of Claimant's last coal mine employment and thus did not make this requisite comparison." Decision and Order at 15. We thus affirm that finding. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

[20] Because the ALJ provided a valid reason for discrediting Dr. Zaldivar's opinion, we need not address Employer's additional arguments as to why the ALJ erred in weighing his opinion. *See Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983); Employer's Brief at 19-22.

inquiry at 20 C.F.R. §718.204(b)(2)(iv) is whether the miner has a totally disabling respiratory or pulmonary impairment); Decision and Order at 16.

Because it is supported by substantial evidence, we affirm the ALJ's determination that the medical opinion evidence supports a finding of total disability and the record as a whole establishes total disability. *Rafferty*, 9 BLR at 1-232; 20 C.F.R. §718.204(b)(2)(iv); Decision and Order at 17. Thus we affirm her finding that Claimant invoked the Section 411(c)(4) presumption of total disability due to pneumoconiosis and established a change in an applicable condition of entitlement. 30 U.S.C. §921(c)(4) (2018); 20 C.F.R. §§718.305, 725.309; Decision and Order at 4 n.8.

Rebuttal of the Section 411(c)(4) Presumption

Because Claimant invoked the Section 411(c)(4) presumption, the burden shifted to Employer to establish he has neither legal nor clinical pneumoconiosis,[21] or that "no part of [his] respiratory or pulmonary total disability was caused by pneumoconiosis as defined in [20 C.F.R.] §718.201." 20 C.F.R. §718.305(d)(1)(i), (ii). The ALJ found Employer failed to establish rebuttal by either method.[22]

Legal Pneumoconiosis

To disprove legal pneumoconiosis, Employer must establish Claimant does not have a chronic lung disease or impairment "significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §§718.201(a)(2), (b), 718.305(d)(1)(i)(A); *see Minich v. Keystone Coal Mining Corp.*, 25 BLR 1-149, 1-155 n.8 (2015).

[21] "Legal pneumoconiosis" includes "any chronic lung disease or impairment and its sequelae arising out of coal mine employment." 20 C.F.R. §718.201(a)(2). The definition includes "any chronic pulmonary disease or respiratory or pulmonary impairment significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b). "Clinical pneumoconiosis" consists of "those diseases recognized by the medical community as pneumoconiosis, *i.e.*, the conditions characterized by permanent deposition of substantial amounts of particulate matter in the lungs and the fibrotic reaction of the lung tissue to that deposition caused by dust exposure in coal mine employment." 20 C.F.R. §718.201(a)(1).

[22] The ALJ found Employer disproved the existence of clinical pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i)(B); Decision and Order at 19-24.

The ALJ considered the opinions of Drs. Zaldivar and McSharry that Claimant does not have legal pneumoconiosis. Decision and Order at 28-30. Dr. Zaldivar opined Claimant has no intrinsic pulmonary impairment and attributed any restrictive impairment solely to his obesity. Employer's Exhibits 1; 4; 6; 9. Dr. McSharry opined there may be some impairment but it is due to Claimant's obesity and not coal mine dust. Employer's Exhibits 4; 9. The ALJ discredited their opinions as inadequately reasoned and thus found them insufficient to rebut the presumption of legal pneumoconiosis. Decision and Order at 28-30.

Employer argues the ALJ erred in discrediting the opinions of Drs. Zaldivar and McSharry. Employer's Brief at 26-36. We disagree.

Dr. Zaldivar opined Claimant has no obstruction or pulmonary disease based on his pulmonary function and blood gas study results. Employer's Exhibits 1 at 3; 6 at 40, 45-46, 77. He acknowledged Claimant has a mild restrictive impairment and sufficient coal mine dust exposure to be at risk for developing legal pneumoconiosis, but opined his restriction is due to obesity. Employer's Exhibits 1 at 3; 6 at 40-41, 53. He further opined Claimant's chronic bronchitis is caused by gastric reflux. Employer's Exhibit 6 at 47.

Dr. McSharry noted Claimant has "[m]ild-moderate restrictive" pulmonary function study results but opined they "do not necessarily represent the effects of coal dust exposure, as obesity can cause the restrictive findings seen in this case, as well as the normal diffusion capacities." Employer's Exhibit 9 at 2. He also acknowledged there "may be modest radiographic suggestion of emphysema present" but did not diagnose it because "radiographs are not the best method of diagnosing emphysema." *Id*. Further, he opined Claimant's reported symptoms "do suggest chronic bronchitis," but he again did not diagnose the disease because it was not "demonstrated on testing." *Id*.

The ALJ observed that Drs. Zaldivar and McSharry gave alternative explanations for Claimant's pulmonary issues. Decision and Order at 28-30. However, she permissibly found that neither physician persuasively explained how they determined Claimant's restrictive impairment is due to obesity or his chronic bronchitis is due to gastric reflux. *See Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; Decision and Order at 28-30. Additionally, she rationally found that, even if Claimant's obesity and gastric reflux are causes of his restrictive impairment and chronic bronchitis, neither physician credibly explained why they are not significantly related to, or substantially aggravated by, his extensive history of coal mine dust exposure. *See Westmoreland Coal Co. v. Stallard*, 876 F.3d 663, 673-74 n.4 (4th Cir. 2017) (ALJ permissibly discredited medical opinions that "solely focused on smoking" as a cause of obstruction and "nowhere addressed why coal dust could not have been an additional cause"); *Island Creek Coal Co. v. Young*, 947 F.3d 399, 408-09 (6th Cir. 2020); Decision and Order at 28-30.

Employer's arguments amount to a request to reweigh the evidence, which we are not empowered to do. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989); Employer's Brief at 28-35. We thus hold the ALJ acted within her discretion in discrediting the opinions of Drs. Zaldivar and McSharry as inadequately explained to rebut the presumption of legal pneumoconiosis.[23] Employer's failure to disprove legal pneumoconiosis precludes a rebuttal finding that Claimant does not have pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i).

Disability Causation

The ALJ next considered whether Employer established "no part of [Claimant's] respiratory or pulmonary total disability was caused by pneumoconiosis as defined in [20 C.F.R.] §718.201." 20 C.F.R. §718.305(d)(1)(ii); *see* Decision and Order at 30-31. She discredited Drs. Zaldivar's and McSharry's disability causation opinions because they did not diagnose legal pneumoconiosis, contrary to her finding that Employer did not disprove the existence of the disease. *See Hobet Mining, LLC v. Epling*, 783 F.3d 498, 504-05 (4th

[23] Because the ALJ provided a valid reason for discrediting Drs. Zaldivar's and McSharry's opinions on legal pneumoconiosis, we need not address Employer's remaining arguments regarding the weight accorded to their opinions. *See Kozele*, 6 BLR at 1-382 n.4; Employer's Brief at 26-28, 35-36.

Cir. 2015); Decision and Order at 30-31. As Employer does not specifically identify any error in the ALJ's credibility finding, we affirm it. *See Cox v. Benefits Review Board*, 791 F.2d 445, 446-47 (6th Cir. 1986); *Sarf v. Director, OWCP*, 10 BLR 1-119, 1-120-21 (1987); *Skrack*, 6 BLR at 1-711; *Fish v. Director, OWCP*, 6 BLR 1-107, 1-109 (1983).

Consequently, we affirm the ALJ's finding that Employer failed to establish no part of Claimant's total respiratory disability is due to legal pneumoconiosis. 20 C.F.R. §718.305(d)(1)(ii); *see Minich*, 25 BLR at 154-56; Decision and Order at 31. Because Employer did not rebut the Section 411(c)(4) presumption, we affirm the award of benefits.

Accordingly, the ALJ's Decision and Order Awarding Benefits is affirmed.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge